

Agenda Item Form

Agenda Date: 04/20/04

Districts Affected: 5

Dept. Head/Contact Information: Pat Adaauto, Deputy CAO, B & PS; 541-4855

CITY CLERK DEPARTMENT

2004 APR 20 PM 1:53

Type of Agenda Item:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Staffing Table Changes | <input type="checkbox"/> Board Appointments |
| <input type="checkbox"/> Tax Installment Agreements | <input type="checkbox"/> Tax Refunds | <input type="checkbox"/> Donations |
| <input type="checkbox"/> RFP/ BID/ Best Value Procurement | <input type="checkbox"/> Budget Transfer | <input type="checkbox"/> Item Placed by Citizen |
| <input type="checkbox"/> Application for Facility Use | <input type="checkbox"/> Bldg. Permits/Inspection | <input type="checkbox"/> Introduction of Ordinance |
| <input type="checkbox"/> Interlocal Agreements | <input type="checkbox"/> Contract/Lease Agreement | <input type="checkbox"/> Grant Application |
| <input type="checkbox"/> Other _____ | | |

Funding Source:

- ☐ General Fund
- ☐ Grant (duration of funds: _____ Months)
- ☒ Other Source: FY 2003 CO's

Legal:

☐ Legal Review Required
Denied

Attorney Assigned (please scroll down): Terri Cullen-Garney

☐ Approved ☐

Timeline Priority: ☒ High ☐ Medium ☐ Low # of days: _____

Why is this item necessary:

Edgemere Extension Project

Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:

Statutory or Citizen Concerns:

Departmental Concerns:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Contract of Sale between the CITY OF EL PASO and the SOCORRO INDEPENDENT SCHOOL DISTRICT for the purchase of

Parcel – 9 -- 1.213 acres, more or less, being a portion of Lots 8 and 9, Block 7; and a portion of Lot 9, Block 8; and a portion of Harkis Road vacated by Ordinance No. 15315, recorded in volume 4556, Page 455, Real Property Records of El Paso, County, Texas, and Quitclaim Deed recorded in Volume 4430, Page 1338, Real Property Records of El Paso County, Texas of Hueco View Acres, an Addition to the City of El Paso, El Paso County, Texas, according to the Plat thereof recorded in Volume 4, Page 41, of the Plat Records, El Paso County, Texas.

to be used for the Edgemere Extension Project.

ADOPTED this _____ day of _____, 2004.

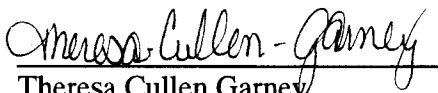
THE CITY OF EL PASO

Joe Wardy, Mayor


ATTEST:

Richarda D. Momsen, City Clerk

APPROVED AS TO FORM:


Theresa Cullen Garney
Deputy City Attorney

APPROVED AS TO CONTENT:


Patricia D. Adauto
Deputy Chief Administrative Officer
for Building and Planning Services

BASKIND & HOSFORD, P.C.

**ATTORNEYS AT LAW
300 E. MAIN, SUITE 908
EL PASO, TEXAS 79901-1379**

**LARRY A. BASKIND
HENRY C. HOSFORD, JR. *
MARK SALLOUM**

**TELEPHONE: (915) 544-0737
FAX: (915) 533-5021**

***ALSO ADMITTED IN NEW MEXICO**

April 7, 2004

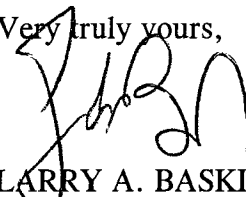
Ms. Theresa Cullen Garney
Deputy City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901

Re: 1.213 Acres out of Lots 8 and 9, Block 7 and portion of Lot 9, Block 8, Hueco View
Acres

Dear Terri:

Please find enclosed four fully executed counterparts of the Contract of Sale for the sale of the right-of-way for Edgemere Blvd. from Socorro ISD to the City of El Paso. Please have appropriate city officials sign and return two counterparts to my office. The School District is ready to close this transaction at any time it is convenient to the City.

Very truly yours,



LARRY A. BASKIND
LAB:ogt

Enclosures

cc: Dr. Robert J. Duron
Superintendent
Socorro ISD
Via Fax 860-7127

Mr. Thomas Eyeington
Assistant Superintendent
Socorro ISD
Via Fax 858-8675

F/LBAS/2004SOISD/CRRSP4/CullenGarney

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

CONTRACT OF SALE

THIS Agreement is entered into this _____ day of _____ 2004, by and between the CITY OF EL PASO, hereinafter referred to as the "City", and SOCORRO INDEPENDENT SCHOOL DISTRICT, hereinafter referred to as "Seller".

NOW, THEREFORE, for and in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Description of Property. The Seller hereby agrees to sell and convey and the City hereby agrees to acquire free and clear of any liens or encumbrances, the following described real property located in El Paso County, Texas:

Parcel 9 — 52,835 square feet, more or less, being a portion of Lots 8 and 9, Block 7; and a portion of Lot 9, Block 8; and a portion of Harkis Road vacated by Ordinance No. 15315, recorded in Volume 4556, Page 455, Real Property Records of El Paso, County, Texas, and Quitclaim Deed recorded in Volume 4430, Page 1338, Real Property Records of El Paso County, Texas, of Hueco View Acres, an Addition to the City of El Paso, El Paso County, Texas, according to the Plat thereof recorded in Volume 4, Page 41, of the Plat Records, El Paso county, Texas, being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof,

together with any interest of the Seller in (i) all improvements, if any, and (ii) all right, title and interest of the Seller in and to any easements, appurtenances, and rights-of-way, and all interests in, on or to, any land, highway or street, in, on, across, in front of, abutting, or adjoining any such real property, all of such property, hereinafter collectively referred to as the "Property".

2. Amount of Payment of Purchase Price. The purchase price for the Property shall be NINETY FIVE THOUSAND ONE HUNDRED AND NO/100THS (\$95,100.00)

2.1 Payment of Sales Price. The full amount of the sales price will be payable in cash at the closing.

3. Conditions to City's Obligations. The obligations of the Seller hereunder to consummate the transaction contemplated herein are subject to the satisfaction of each of the following conditions, any of which may be waived, in whole or in part, in writing by the City, at or prior to Closing.

3.1 Title Insurance. Within thirty (30) working days after the date of execution of this contract, the City at its expense will order a title commitment ("commitment"), accompanied by copies of all recorded documents affecting the property for the issuance

of an Owner's Policy of Title Insurance with respect to the Property, in an amount to be decided by the City ("Owner's Policy").

3.2 Title Objections. The City will give the Seller written notice on or before the expiration of ten (10) working days after it receives the Commitment that the condition of the title set forth in the Commitment is or is not satisfactory. In the event the City states that the condition is not satisfactory, the City will specifically set forth in such notice the defect or exception to title that is deemed objectionable. Seller may promptly undertake to eliminate or modify all unacceptable matters to the reasonable satisfaction of the City. Otherwise, this condition will be deemed acceptable and any objection by the City will be deemed waived.

4. Representations and Warranties of Seller. The Seller hereby represents and warrants to the City that to the best of its knowledge, as follows:

4.1 Parties in Possession. There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or otherwise.

4.2 Legal and Authorized Transactions. The Seller warrants that no person or persons own an interest in the fee title in the Property other than the Seller and that the joinder of no other third party shall be required to consummate this transaction.

4.3 Mechanic's Lien. To the Seller's best knowledge and belief: (i) no action has been taken, suffered or permitted by or on behalf of the Seller, the effect of which would be to establish or cause the inception or priority of any mechanic's or materialmen's lien, statutory, constitutional or otherwise, or other lien, charge or encumbrance upon the Property or any part thereof or interest therein; or (ii) no liens or lien claims, choate or inchoate, arising from the Seller's actions or otherwise, exist or can exist for the benefit of mechanics or materialmen in regard to the Property. Except as expressly disclosed in the documents relating to this transaction, the Seller has not entered into any contracts or agreements relating to the use of ownership of the Property or by which any person or entity agreed to provide labor, services or materials in regard to the Property or the business of the Seller.

4.4 Litigation. To the best knowledge of the Seller, there is no pending or contemplated litigation before or by any court of law pertaining to the Property or which involve incidents occurring on the Property including, but not limited to, claims of damage to persons or property.

4.5 Bills Paid. At closing, there will be no unpaid bills or claims in connection with any repair or operation of the Property.

4.6 Compliance Law. To the best of the Seller's knowledge, all laws, ordinances, rules and regulations of any Government or any agency, body or subdivision thereof, bearing in the development of the Property, have been complied with.

4.7 Taxes. To the best of the Seller's knowledge, no state or municipal taxes are due with respect to the Property and no liens for such taxes are in effect against the Property, except as set forth on the Title Commitment.

4.8 Pre-Closing Claims. The Seller agrees that the City's acceptance of title to the Property under the conveyance documents should not create any liability on the City's part to third parties that have claims of any kind against the Seller in connection with the Property. The City hereby expressly disclaims any and all liability to third parties that have any claims against the Seller. The City will not assume or agree to discharge any liabilities pertaining to the Property that occurred or accrued prior to the date of Closing.

4.9 Authority. The Seller has full right, power and authority to convey the property to the City and to consummate this transaction as provided in this Contract without the joinder of any other person or entity.

4.10 Title. The Seller has good and marketable title to an indefeasible fee simple estate in the Property, subject to no liens, charges, encumbrances or exceptions other than those shown on the Title Commitment.

4.11 Condition of Property Prior to Closing. Prior to Closing, the Seller shall not create or permit to be created any easement or other condition affecting the Property without the prior written consent of the City.

4.12 Survival. All representations, warranties, covenants and agreements of the Seller made in this document shall survive the execution and delivery hereof and the Closing hereunder, until such time as all of the obligations of the signatories hereto shall have lapsed in accordance with their respective terms or shall have been discharged in full.

5. Closing. The closing of this transaction ("Closing") shall take place at the offices of Lone Star Title Company, 500 North Mesa, El Paso, Texas 79901.

5.1 Possession. Possession of the Property will be transferred to the City upon Closing.

5.2 Closing Costs.

- (a) All recording fees arising from the recordation of documents necessary to show good title to the Property City shall be paid by the City.
- (b) Premiums and other charges for the issuance of the Owner's Policy of Title Insurance for the Property shall be paid by the City.
- (c) Escrow fees, if any, shall be paid by the City.

5.3 Seller's Obligations. At Closing, the Seller shall deliver to the City a duly executed and acknowledged Warranty Deed to the Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, and restrictions, except for (i) ad valorem taxes for the year of Closing which shall be prorated to the date of Closing, (ii) the standard printed exceptions contained in the usual form of the Owner's Policy, and (iii) any other exceptions set forth in the Title Policy which the City has approved pursuant to Paragraph 3.2 above.

5.4 Other Obligations. Each party shall do all other acts, or deliver any other instruments or documents required or helpful to be done or delivered, in order to consummate this transaction.

6. Default.

6.1 Breach by Seller. In the event that Seller shall fail to fully and timely perform any of its obligations under this Agreement, or shall fail to consummate the sale of the Property for any reason, except the City's default, or the termination of this Agreement in accordance with its terms, the City may enforce specific performance of this Agreement.

6.2 Breach by City. In the event that City shall fail to fully and timely perform any of its obligations under this Agreement, or shall fail to consummate the sale of the Property for any reason, except Seller's default, or the termination of this Agreement in accordance with its terms, due to the difficulty of assessing Seller's actual damages as a result of such breach by City, Seller shall have a right to receive the \$100.00, such sum being agreed upon as liquidated damages for the failure of the City to perform the duties, liabilities and obligations imposed upon it by the terms and provisions of this Agreement, and Seller agree to accept and take such cash payment as its total, reasonable damages and relief and as Seller's sole, exclusive remedy hereunder in such event.

7. Miscellaneous.

7.1 Notice. Any notice, demand, direction, request, or other instrument authorized or required by this Agreement to be given to or filed with either party, shall be deemed to have been sufficiently given or filed for all purposes, if and when personally delivered or sent by certified mail, postage prepaid, return receipt requested, to the address specified below or at such other address as may be designated in writing by the parties:

Seller: Socorro Independent School District
c/o Larry A. Baskind
Baskind & Hosford, P.C.
300 E. Main, Suite 908
El Paso, Texas 79901

City: Mayor Joe Wardy
The City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

8. Entire Agreement/Governing Law. This Agreement constitutes the entire agreement between the parties, and supersedes all prior agreements and understandings, written or oral, regarding the subject matter of this Agreement, and may be amended or supplemented only by an instrument in writing, executed by the party against whom enforcement is sought. This Agreement shall be governed in all respects, including validity, interpretation and effect, by and shall be enforceable in accordance with the laws of the State of Texas.

8.1 Time. Time is of the essence of this Agreement and each and every provision hereof.

8.2 Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portion shall not in any way be affected or impaired.

8.3 Survival of Provisions. The terms contained in this Agreement, including without limitation, representations, warranties, covenants and agreements of the parties, shall survive the Closing and shall not be merged therein. In case any one or more of the provisions contained in this contract for any reason is held invalid, this invalidity will not affect any other provision of this Contract, which will be construed as if the invalid or unenforceable provision had never existed.

8.4 Binding Effect. This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

8.5 Compliance. In accordance with the requirements of Section 2B of the Texas Real Estate License Act, the City is hereby advised that it should be furnished with or obtain a policy of title insurance or have an abstract covering the Property examined by an attorney of its own selection.

The above instrument, together with all conditions thereto is hereby EXECUTED by the Seller this 6 day of March, 2004.

SOCORRO INDEPENDENT SCHOOL DISTRICT

BY: Guillermo Gandara
GUILLERMO GANDARA
President, Board of Trustees

ATTEST:

Brenda L. Castaneda
BRENDA L. CASTANEDA, Secretary
Board of Trustees

APPROVED AS TO FORM AND CONTENT:

Thomas A. Eyeington
THOMAS A. EYEINGTON, Assistant Superintendent

APPROVED AS TO FORM:

Larry A. Baskind
LARRY A. BASKIND, General Counsel

EXECUTED by the City this _____ day of _____, 200__.

CITY OF EL PASO, a Municipal Corporation

By: _____
Joe Wardy, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO CONTENT:

Patricia D. Adauto
Patricia D. Adauto, Deputy CAO
Building and Planning Services

APPROVED AS TO FORM:

Theresa Cullen Garney
Theresa Cullen Garney
Deputy City Attorney

HUITT-ZOLLARS, INC.

5822 Cromo Drive, Ste. 210

El Paso, Texas, 79912

Phone: (915)587-4339

Fax: (915)587-5247

EXHIBIT "A"

PARCEL NINE

Job No.: 09-0177-03

Part of Lots 8 and 9, Block 7, and part of Lot 9, Block 8; and a portion of Harkis Road, Hueco View Acres. Proposed Right-of-Way for Edgemere Boulevard, City of El Paso, El Paso County, Texas

Field Note Description

All that certain tract or parcel of land for a proposed right-of-way lying within the corporate limits of the City of El Paso, El Paso County, Texas, same being a part of Lots 8 and 9, Block 7; Lot 9, Block 8; and a portion of Harkis Road, Hueco View Acres, an addition to the City of El Paso according to the plat thereof recorded in Volume 4, Page 41, of the Plat Records of El Paso County, Texas, and being out of and a part of those certain tracts described in deeds to the Socorro Independent School District recorded in Volume 4077, Page 0437; Volume 4078, Page 1220; Volume 4430, Page 1338; and Volume 4098, Page 0189, of the Deed Records of El Paso County, Texas, and being more particularly described as follows:

Commencing at a $\frac{5}{8}$ -inch rebar with plastic cap marked "TX4869" found marking the northwest corner of that certain tract described in deed to Custom Woodcraft of El Paso, Inc., recorded in Volume 0152, Page 0131, of the Deed Records of El Paso County, Texas, same being on the east right-of-way of Lee Boulevard (90 feet wide); thence with the east right-of-way of Lee Boulevard, South $00^{\circ}29'56''$ East, 103.14 feet to a point for corner; thence South $45^{\circ}13'29''$ East, 50.68 feet to a point for corner on the north right-of-way of Edgemere Boulevard according to a deed to the City of El Paso recorded in Volume 4520, Page 0763, of the Deed Records of El Paso County, Texas; thence with the north right-of-way of Edgemere Boulevard, South $89^{\circ}56'10''$ East, 161.33 feet to an angle point in the north right-of-way; thence South $00^{\circ}03'50''$ West, 30.00 feet to the existing north right-of-way of Edgemere Boulevard, Thence South $02^{\circ}25'46''$ West, 60.05 feet a $\frac{5}{8}$ -inch rebar with a yellow Huitt-Zollars, Inc. plastic cap marked "RPLS 4156" set for the Point of Beginning of

Field Note Description – Page 1 of 3

PARCEL NINE

Part of Lots 8 and 9, Block 7, and part of Lot 9, Block 8; and a portion of Harkis Road, Hueco View Acres. Proposed Right-of-Way for

1 this parcel, same being on the existing south right-of-way of Edgemere Boulevard, and
2 being the northwest corn of the Socorro Independent School District Tract described in
3 Volume 4077, Page 437;

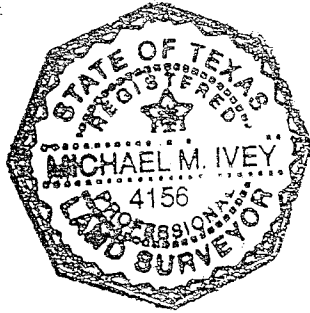
4
5 Thence with the existing south right-of-way of Edgemere Boulevard, same being the north
6 line of the Socorro Independent School District Tract, South 89°56'10" East, at 431.02 feet
7 pass the northwest corner of the Socorro Independent School District Tract described in
8 Volume 4078, Page 1220, at 1046.26 feet pass the northwest corner of the Socorro
9 Independent School District Tract described in Volume 4430, Page 1338, at 1146.26 feet
10 pass the northwest corner of the Socorro Independent School District Tract described in

11 Volume 4098, Page 0189, continuing in all a distance of 1761.02 feet to a 5/8-inch rebar
12 with a yellow Huitt-Zollars, Inc. plastic cap marked "RPLS 4156" set for corner, a City of El
13 Paso brass cap monument bears North 00°03'50" East, 30.00 feet, and South 89°56'10"
14 East, 70.53 feet;

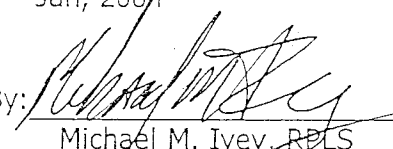
15
16 Thence South 00°29'22" East a distance of 30.00 feet to the northwest corner of Stanton
17 Heights, Unit 4, an addition to the City of El Paso according to the map thereof recorded in
18 Volume 77, Page 78, of the Plat Records of El Paso County, Texas;

19
20 Thence with the proposed south right-of-way of Edgemere Boulevard, North 89°56'10"
21 West, at 640.00 feet pass the east line of said Socorro Independent School District Tract
22 described in Volume 4430, Page 1338, at 690.00 feet pass the east line of the Socorro
23 Independent School District Tract described in Volume 4078, Page 1220, at 1330.00 feet
24 pass the east line of the Socorro Independent School District Tract described in Volume
25 4077, Page 0437, continuing in all a distance of 1761.31 feet a 5/8-inch rebar with a yellow
26 Huitt-Zollars, Inc. plastic cap marked "RPLS 4156" set at the southeast corner of that
27 certain tract described in deed to the City of El Paso, of record in Volume 4569, Page 0743,
28 of the Deed Records of El Paso County, Texas, same being on the east line of that certain
29 tract described in deed to the Socorro Independent School District, of record in Volume
30 4077, Page 0433, of the Deed Records of El Paso County, Texas;

1 Thence with the west line of the Socorro Independent School District Tract described in
2 Volume 4077, Page 437, North 00°03'50" East a distance of 30.00 feet to the Point of
3 Beginning and containing 52,835 square feet or 1.213 acres of land.

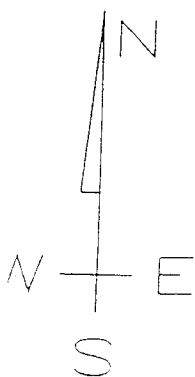
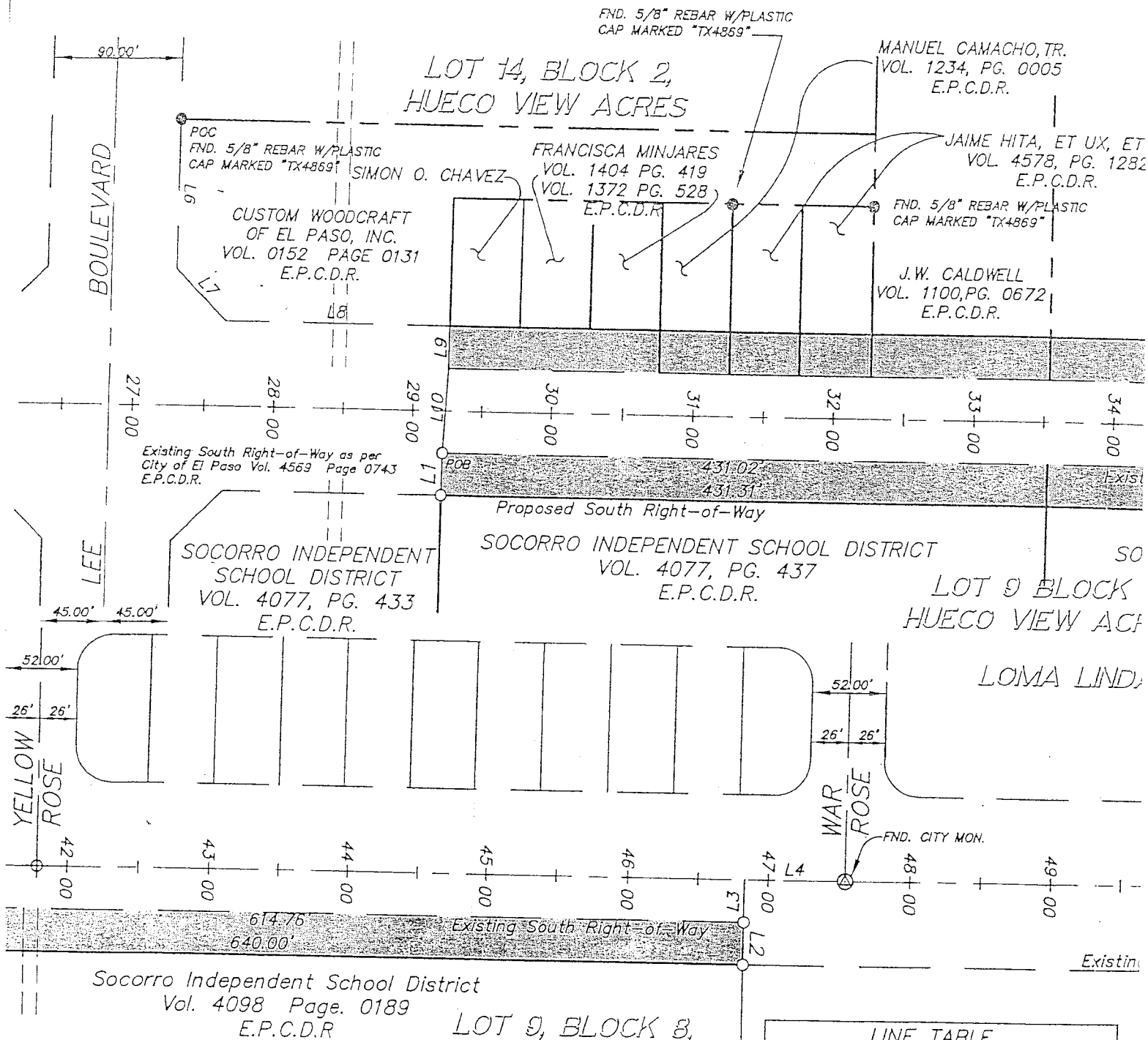


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5
6 Dated this 14th Jan, 2004

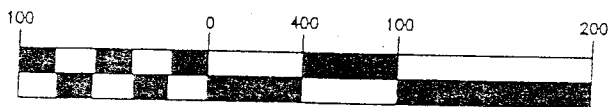
7 By: 
8 Michael M. Ivey, RPLS
9 Texas Registration No. 4156
10

11 Bearings in this description are based on true north as determined by GPS satellite
12 observation on existing city monuments at the intersection of Edgemere and Rising Sun,
13 and Edgemere and War Rose.

14
15 This description accompanies a plat of survey of even date.
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30



GRAPHIC SCALE



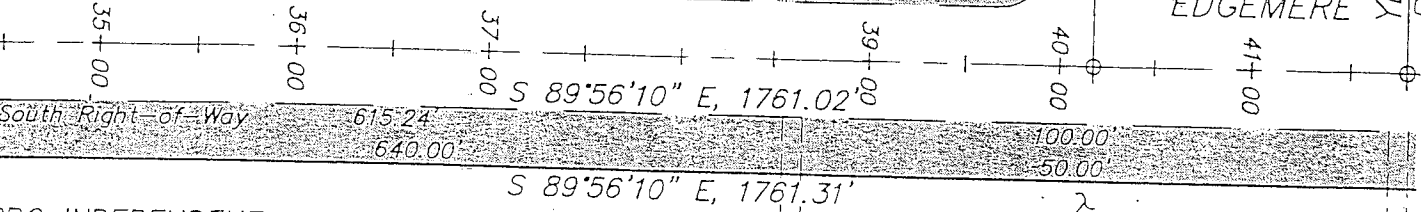
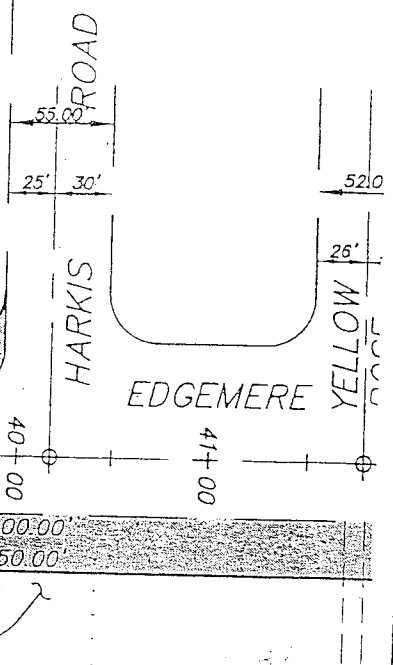
(IN FEET)
1 inch = 100 ft.

LINE TABLE		
LINE	BEARING	LENGTH
L1	N00°03'50"E	30.00'
L2	S00°29'21"E	30.00'
L3	N00°03'50"E	30.00'
L4	S89°56'10"E	70.53'
L6	S00°29'56"E	103.14'
L7	S45°13'29"E	50.68'
L8	S89°56'10"E	161.33'
L9	S00°03'50"W	30.00'
L10	S02°25'46"W	60.05'

LOT 1, BLOCK 2, HUECO VIEW ACRES

FERNANDO A. MARTINEZ
AND
ELIZABETH C. MARTINEZ
FAMILY TRUST
VOL. 4235 PAGE 1935
E.P.C.D.R.

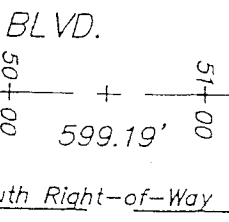
10' PUBLIC UTILITY
EASEMENT AS PER PLAT
OF HUECO VIEW ACRES



PRO INDEPENDENT SCHOOL DISTRICT
VOL. 4078 PAGE 1220
E.P.C.D.R.

SOCORRO INDEPENDENT
SCHOOL DISTRICT
VOL. 4430, PG. 1338
E.P.C.D.R.

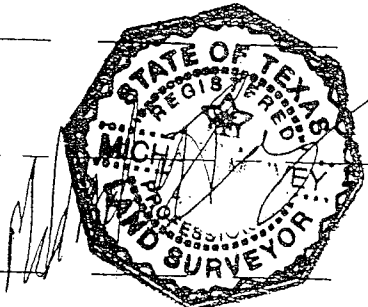
UNIT 1



TANTON HEIGHTS,
UNIT 10

KLEINFELD
SAUL

○ - SET 5/8" REBAR WITH PLASTIC CAP
BASIS OF BEARING-GPS OBSERVATIONS
MADE ON CITY MONS. ○ EDGEMERE &
RISING STAR AND EDGEMERE AND WAR
ROSE FROM TRI. STA. SHERMAN.



PARCEL NINE
52,835 Sq.Ft.
1.213 Ac.

PLAT OF SURVEY
PART OF LOT 8, BLOCK 6
HUECO VIEW ACRES
CITY OF EL PASO
EL PASO COUNTY, TEXAS

HUITT-ZOLLARS INC.							
HUITT-ZOLLARS, INC. 5822 CROWD DR./SUITE-210/EL PASO, TEXAS 79912 PH. (915)587-4339 / FAX (915)587-5247							
DRAWN BY: mmi	DATE: 07-20-2003						
CHECKED BY: mmi	DRAWING NO.: 1	1	01/05/04	Changed to Parcel Nine		mmi	
JOB NO.: 03-0177-03	SHEET: 1 of 1	NO.	DATE	DESCRIPTION		BY	